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Filing date: **07/08/2009**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	The McGraw-Hill Companies, Inc.		
Entity	Corporation	Citizenship	New York
Address	1221 Avenue of the Americas New York, NY 10020-1095 UNITED STATES		
Attorney information	Jenifer deWolf Paine Proskauer Rose LLP 1585 Broadway Trademark File Room New York, NY 10036-8299 UNITED STATES trademark@proskauer.com Phone:(212) 969-3000		

Registration Subject to Cancellation

Registration No	3599386	Registration date	03/31/2009
Registrant	iSpeakthat.com, LLC Apt 17B 225 East 34th Street New York, NY 10016 UNITED STATES		

Goods/Services Subject to Cancellation


Class 041. First Use: 2008/01/16 First Use In Commerce: 2008/11/06 All goods and services in the class are cancelled, namely: LANGUAGE EDUCATIONAL SERVICES, NAMELY, PROVIDING AN INTERACTIVE WEBSITE FEATURING EDUCATIONAL INFORMATION IN THE FIELD OF LANGUAGES, LANGUAGE INSTRUCTION AND LANGUAGE TRANSLATION

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Petitioner as Basis for Cancellation

U.S. Application No.	77623610	Application Date	12/01/2008
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	ISPEAK		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 2007/05/00 First Use In Commerce: 2007/05/00 Computer software for foreign language instruction Class 016. First use: First Use: 2007/05/00 First Use In Commerce: 2007/05/00 Series of books for foreign language instruction
Attachments	77623610#TMSN.jpeg (1 page)(bytes) 3599386 Petition to Cancel.pdf (4 pages)(127449 bytes)

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Jenifer deWolf Paine/
Name	Jenifer deWolf Paine
Date	07/08/2009

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

THE MCGRAW-HILL COMPANIES, INC.

Petitioner

v.

ISPEAKTHAT.COM, LLC

Registrant

Reg. No. 3,599,386

Cancellation No.: _____

Mark: ISPEAKTHAT.COM

Trademark Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1451
Alexandria, VA 22313-1451

PETITION TO CANCEL

This Petition to Cancel relates to Registration No. 3,599,386 for the mark ISPEAKTHAT.COM (stylized) in International Class 41, registered in the name of ISpeakThat.Com, LLC, a New York limited liability company with an address of 225 East 34th Street, Apt. 17B, New York, NY 10016.

The McGraw-Hill Companies, Inc. ("McGraw-Hill" or "Petitioner"), a New York corporation with an address of 1221 Avenue of the Americas, New York, NY 10020-1095 believes it will be damaged by continued registration of the ISPEAKTHAT.COM mark, and hereby petitions to cancel it.

The grounds for this Petition to Cancel are as follows:

1. Since at least May of 2007, and before Registrant's filing date or first use date, McGraw-Hill has been using the mark ISPEAK in connection with foreign language learning tools - namely a listening program that plays on the user's iPod and accompanying written materials.

2. On December 1, 2008, McGraw-Hill filed an application to register the mark ISPEAK, in connection with “computer software for foreign language instruction” in Class 9 and “series of books for foreign language instruction” in Class 16. McGraw-Hill’s application was assigned S.N. 77/623,610.

3. On August 28, 2007, Registrant filed an application to register the mark ISPEAKTHAT.COM (design) on an intent-to-use basis. Registrant later amended its application to allege a first use date of January 16, 2008 and a first use in commerce date of November 6, 2008.

4. Registrant’s mark ISPEAKTHAT.COM is confusingly similar to Petitioner’s ISPEAK mark. The services Registrant offers under its ISPEAKTHAT.COM mark – “language educational services, namely, providing an interactive website featuring educational information in the field of languages, language instruction and language translation” – are highly similar to the products sold under Petitioner’s ISPEAK mark.

5. Due to the strong similarity of Registrant’s mark to Petitioner’s mark, and the highly related nature of the goods and services, concurrent use of the mark ISPEAKTHAT.COM by Registrant and ISPEAK by Petitioner would likely result in consumer confusion as to source, sponsorship, approval, or affiliation within the meaning of 15 U.S.C. §§ 1114 and 1125(a), and, therefore, Petitioner is likely to be damaged by continued registration of Petitioner’s mark within the meaning of 15 U.S.C. § 1063(a).

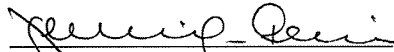
6. Registrant’s mark is unregistrable pursuant to 15 U.S.C. § 1052(d), as it so resembles a mark previously used in the United States by another and not abandoned as to be likely to cause confusion, mistake or to deceive.

7. Thus, Petitioner is likely to be damaged by the continued registration of the Registered Mark within the meaning of 15 U.S.C. § 1064.

WHEREFORE, Petitioner prays that the petition be granted and the Registered Mark be canceled.

Respectfully submitted,

Date: July 8, 2009

A handwritten signature in cursive script, appearing to read "Jennifer deWolf Paine", written over a horizontal line.

Jennifer deWolf Paine
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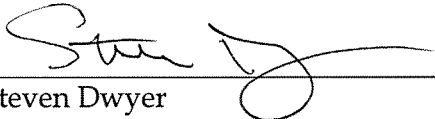
Attorneys for Petitioner,
The McGraw-Hill Companies, Inc.

Certificate of Service

I hereby certify that on July 8, 2009 I caused a true copy of the foregoing Petition to Cancel on counsel for Registrant by fax and first class mail as follows:

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Steven Dwyer